U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: FEB 0 1 2013 OFFICE: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as an adjunct professor of sociology at . The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

In a cover letter accompanying the appeal, counsel stated: "We will NOT be submitting a brief or additional evidence to the Administrative Appeals Office" (counsel's emphasis). Therefore, the Form I-290B Notice of Appeal constitutes the entire appeal.

The statement on the appeal form reads:

> The decision constitutes an abuse of discretion as it was not based on the proper NYSDOT standard and did not properly consider all evidence submitted. In addition, the [application for] adjustment of status was denied on the basis that the petition wasn't current at the time of tiling but this was incorrect. There were two petitions filed on behalf of [the petitioner] . . . and [the present petition] was current at the time the [application for] adjustment of status was filed.

Only the first sentence of the above statement relates to the denial of the Form I-140 immigrant petition. Counsel makes a general allegation of error, but provides no specific information. Counsel refers to *In re New York State Dept. of Transportation*, 22 I&N Dec. 215 (Act. Assoc. Comm'r 1998), a precedent decision regarding the national interest waiver of the statutory job offer requirement at section 203(b)(2) of the Act. It cannot suffice for counsel simply to declare that the decision "was not based on the proper NYSDOT standard." Counsel offers no explanation of how the decision purportedly strayed from that standard. The bare assertion that the director somehow erred in rendering the decision is not sufficient basis for a substantive appeal.

The remainder of the appellate statement contests not the denial of the Form I-140 petition, but a concurrently filed Form I-485 adjustment application. There is no appeal from the denial of an adjustment application. *See* 8 C.F.R. § 245.2(a)(5)(ii). There is no provision for the petitioner to dispute the denial of an adjustment application as part of an appeal of another denial. Therefore,

counsel's assertions regarding the denial of the adjustment application are irrelevant to the matter at hand, and as such, they add nothing of substance to the appeal.

Because counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the AAO must summarily dismiss the appeal.

ORDER: The appeal is dismissed.